

**U.S. District Court
North Carolina Middle District (NCMD)
CIVIL DOCKET FOR CASE #: 1:17-cv-00102-NCT-JEP**

BIOMERIEUX, INC. et al v. HOLOGIC INC et al
Assigned to: JUDGE N. C. TILLEY, JR
Referred to: MAG/JUDGE JOI ELIZABETH PEAKE
Cause: 35:271 Patent Infringement

Date Filed: 02/03/2017
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

BIOMERIEUX, INC.

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Defendant

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*ATTORNEY TO BE NOTICED***STEPHEN MCDANIEL RUSSELL, JR.**

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/03/2017	<u>1</u>	COMPLAINT against GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS SA, HOLOGIC INC (Filing fee \$ 400 receipt number 0418-2065628.), filed by BIOMERIEUX, INC., BIOMERIEUX, SA. (Attachments: # <u>1</u> Exhibit '352 Patent, # <u>2</u> Exhibit '262 Patent)(MITCHELL, MICHAEL) (Entered: 02/03/2017)
02/03/2017	<u>2</u>	NOTICE of Appearance by attorney MICHAEL W. MITCHELL on behalf of Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, SA (MITCHELL, MICHAEL) (Entered: 02/03/2017)
02/03/2017	<u>3</u>	CORPORATE DISCLOSURE STATEMENT filed pursuant to FRCP 7.1(a) by Plaintiff BIOMERIEUX, SA. (MITCHELL, MICHAEL) (Entered: 02/03/2017)
02/03/2017	<u>4</u>	CORPORATE DISCLOSURE STATEMENT filed pursuant to FRCP 7.1(a) by Plaintiff BIOMERIEUX, INC.. (MITCHELL, MICHAEL) (Entered: 02/03/2017)
02/03/2017	<u>5</u>	CASE REFERRED to Mediation pursuant to Local Rule 83.9b of the Rules of Practice and Procedure of this Court. Please go to our website under Attorney Information for a list of mediators which must be served on all parties. (Coyne, Michelle) (Entered: 02/03/2017)
02/03/2017	<u>6</u>	Case ASSIGNED to JUDGE N. C. TILLEY, JR and MAGISTRATE JUDGE JOI ELIZABETH PEAKE. Set flag for Magistrate Judge Joi Elizabeth Peake. (Coyne, Michelle) (Entered: 02/03/2017)
02/03/2017	<u>7</u>	Summons Issued as to GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC.. (Attachments: # <u>1</u> Hologic)(Coyne, Michelle) (Entered: 02/03/2017)
02/03/2017	<u>8</u>	Notice of Right to Consent. Counsel shall serve the attached form on all parties. (Attachments: # <u>1</u> Consent Form)(Coyne, Michelle) (Entered: 02/03/2017)
03/02/2017	<u>9</u>	NOTICE of Appearance by attorney STEPHEN MCDANIEL RUSSELL, JR on behalf of Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. (RUSSELL, STEPHEN) (Entered: 03/02/2017)
03/02/2017	<u>10</u>	NOTICE of Appearance by attorney ALLISON VAN LANINGHAM MULLINS on behalf of Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. (MULLINS, ALLISON) (Entered: 03/02/2017)

03/02/2017	<u>19</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC.. (Attachments: # <u>1</u> Text of Proposed Order Order)(MULLINS, ALLISON) (Entered: 03/02/2017)
03/02/2017	<u>1</u>	ORDER granting <u>9</u> Motion for Extension of Time to Answer for GRIFOLS DIAGNOSTIC SOLUTIONS INC and HOLOGIC, INC. Answer due by 4/3/2017. Signed by John Brubaker, Clerk of Court, on 03/02/2017. (Brubaker, John) (Entered: 03/02/2017)
03/06/2017	<u>10</u>	Summons Issued as to GRIFOLS S.A. (Coyne, Michelle) (Entered: 03/06/2017)
03/21/2017	<u>11</u>	NOTICE of Appearance by attorney CHARLES L. MCCLOUD on behalf of Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. (MCCLOUD, CHARLES) (Entered: 03/21/2017)
03/21/2017	<u>12</u>	NOTICE of Appearance by attorney PAUL B. GAFFNEY on behalf of Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. (GAFFNEY, PAUL) (Entered: 03/21/2017)
03/21/2017	<u>13</u>	NOTICE of Appearance by attorney STANLEY E. FISHER on behalf of Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. (FISHER, STANLEY) (Entered: 03/21/2017)
03/22/2017	<u>14</u>	NOTICE of Appearance by attorney SHAUN P. MAHAFFY on behalf of Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. (MAHAFFY, SHAUN) (Entered: 03/22/2017)
04/03/2017	<u>15</u>	Corporate Disclosure Statement by HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 04/03/2017)
04/03/2017	<u>16</u>	Corporate Disclosure Statement by GRIFOLS DIAGNOSTIC SOLUTIONS INC. (MULLINS, ALLISON) (Entered: 04/03/2017)
04/03/2017	<u>17</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC.. Response to Motion due by 4/24/2017 (MULLINS, ALLISON) (Entered: 04/03/2017)
04/03/2017	<u>18</u>	BRIEF re <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. by GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 04/03/2017)
04/13/2017	<u>19</u>	AFFIDAVIT OF SERVICE as to GRIFOLS DIAGNOSTIC SOLUTIONS INC served on 2/9/2017, answer due 4/3/2017; GRIFOLS S.A. served on 3/28/2017, answer due 4/18/2017; HOLOGIC, INC. served on 2/9/2017, answer due 4/3/2017. (Attachments: # <u>1</u> Exhibit Ex. A-Grifols Diagnostic Confirmation, # <u>2</u> Exhibit Ex. B Hologic Confirmation, # <u>3</u> Exhibit Ex. C Grifols, SA Confirmation)(MITCHELL, MICHAEL) (Entered: 04/13/2017)
04/18/2017	<u>20</u>	NOTICE of Appearance by attorney STEPHEN MCDANIEL RUSSELL, JR on behalf of Defendant GRIFOLS S.A. (RUSSELL, STEPHEN) (Entered: 04/18/2017)
04/18/2017	<u>21</u>	NOTICE of Appearance by attorney ALLISON MULLINS on behalf of Defendant GRIFOLS S.A. (MULLINS, ALLISON) (Entered: 04/18/2017)
04/18/2017	<u>22</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by GRIFOLS S.A.. (Attachments: # <u>1</u> Text of Proposed Order (Exh A – Proposed Order))(MULLINS, ALLISON) (Entered: 04/18/2017)
04/18/2017	<u>1</u>	ORDER granting <u>22</u> Motion for Extension of Time to Answer for GRIFOLS S.A. Answer due by 5/2/2017. Signed by John Brubaker, Clerk of Court, on 04/18/2017. (Brubaker, John) (Entered: 04/18/2017)
04/18/2017	<u>23</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by BIOMERIEUX, INC., BIOMERIEUX, S.A..

		(Attachments: # <u>1</u> Text of Proposed Order Ex A – Proposed Order)(MITCHELL, MICHAEL) (Entered: 04/18/2017)
04/19/2017	<u>1</u>	Motions Referred: RE: <u>23</u> Consent MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , to MAG/JUDGE JOI ELIZABETH PEAKE (Winchester, Robin) (Entered: 04/19/2017)
04/24/2017	<u>24</u>	ORDER signed by MAG/JUDGE JOI ELIZABETH PEAKE on 04/24/2017, that bioMrieux's Consent Motion [Doc. # <u>23</u>] for Extension of Time for bioMrieux to Respond to the Motion to Dismiss of Grifols Diagnostic Solutions Inc. and Hologic, Inc. is GRANTED and bioMrieux will have to and including May 23, 2017, to respond to the Motion to Dismiss of Grifols Diagnostic Solutions Inc. and Hologic, Inc. (Garland, Leah) (Entered: 04/24/2017)
05/02/2017	<u>25</u>	CORPORATE DISCLOSURE STATEMENT filed pursuant to FRCP 7.1(a) by Defendant GRIFOLS S.A. (MULLINS, ALLISON) (Entered: 05/02/2017)
05/02/2017	<u>26</u>	MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> by GRIFOLS S.A.. Response to Motion due by 5/23/2017 (MULLINS, ALLISON) (Entered: 05/02/2017)
05/02/2017	<u>27</u>	BRIEF re <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> by Defendant GRIFOLS S.A. filed by GRIFOLS S.A.. (MULLINS, ALLISON) (Entered: 05/02/2017)
05/02/2017	<u>28</u>	DECLARATION filed by Defendant GRIFOLS S.A. re <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> , <u>27</u> Brief in Support of Motion to Dismiss filed by GRIFOLS S.A.. (MULLINS, ALLISON) (Entered: 05/02/2017)
05/02/2017	<u>29</u>	DECLARATION filed by Defendant GRIFOLS S.A. re <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> , <u>27</u> Brief in Support of Motion to Dismiss filed by GRIFOLS S.A.. (MULLINS, ALLISON) (Entered: 05/02/2017)
05/23/2017	<u>30</u>	RESPONSE in Opposition re <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Replies due by 6/6/2017 (MITCHELL, MICHAEL) (Entered: 05/23/2017)
05/23/2017	<u>31</u>	RESPONSE in Opposition re <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> filed by GRIFOLS S.A. filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Replies due by 6/6/2017 (MITCHELL, MICHAEL) (Entered: 05/23/2017)
05/23/2017	<u>32</u>	DECLARATION filed by Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. re <u>31</u> Response in Opposition to Motion, filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. (Attachments: # <u>1</u> Exhibit Exh. A, # <u>2</u> Exhibit Exh. B, # <u>3</u> Exhibit Exh. C, # <u>4</u> Exhibit Exh. D, # <u>5</u> Exhibit Exh. E)(MITCHELL, MICHAEL) (Entered: 05/23/2017)
05/23/2017	<u>33</u>	MOTION for Discovery by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Response to Motion due by 6/13/2017 (MITCHELL, MICHAEL) (Entered: 05/23/2017)
05/23/2017	<u>34</u>	MEMORANDUM filed by Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. re <u>33</u> MOTION for Discovery filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. (MITCHELL, MICHAEL) (Entered: 05/23/2017)
05/31/2017	<u>35</u>	NOTICE of Appearance by attorney MATTHEW M. WOLF on behalf of Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. (WOLF, MATTHEW) (Entered: 05/31/2017)
05/31/2017	<u>36</u>	

		NOTICE of Appearance by attorney MATTHEW M. WOLF on behalf of Defendant GRIFOLS S.A. (WOLF, MATTHEW) (Entered: 05/31/2017)
05/31/2017	<u>37</u>	NOTICE of Appearance by attorney JENNIFER A. SKLENAR on behalf of Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. (SKLENAR, JENNIFER) (Entered: 05/31/2017)
05/31/2017	<u>38</u>	NOTICE of Appearance by attorney JENNIFER A. SKLENAR on behalf of Defendant GRIFOLS S.A. (SKLENAR, JENNIFER) (Entered: 05/31/2017)
05/31/2017	<u>39</u>	NOTICE of Appearance by attorney MARTY KORESAWA on behalf of Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, HOLOGIC, INC. (KORESAWA, MARTY) (Entered: 05/31/2017)
05/31/2017	<u>40</u>	NOTICE of Appearance by attorney MARTY KORESAWA on behalf of Defendant GRIFOLS S.A. (KORESAWA, MARTY) (Entered: 05/31/2017)
06/06/2017	<u>41</u>	REPLY, filed by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC., to Response to <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 06/06/2017)
06/06/2017	<u>42</u>	REPLY, filed by Defendant GRIFOLS S.A., to Response to <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> filed by GRIFOLS S.A.. (MULLINS, ALLISON) (Entered: 06/06/2017)
06/09/2017	<u>I</u>	Motions Submitted: <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>26</u> MOTION to Dismiss for Lack of Jurisdiction <i>or, in the Alternative, for Failure to State a Claim</i> to JUDGE N. C. TILLEY, JR. (Winchester, Robin) (Entered: 06/09/2017)
06/09/2017	<u>43</u>	Supplemental MOTION to Dismiss <i>for Improper Venue</i> by GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. Response to Motion due by 6/30/2017 (RUSSELL, STEPHEN) (Entered: 06/09/2017)
06/09/2017	<u>44</u>	BRIEF re <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue</i> by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC. filed by GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. (RUSSELL, STEPHEN) (Entered: 06/09/2017)
06/13/2017	<u>45</u>	RESPONSE in Opposition re <u>33</u> MOTION for Discovery filed by BIOMERIEUX, INC., BIOMERIEUX, S.A. filed by GRIFOLS S.A.. Replies due by 6/27/2017 (MULLINS, ALLISON) (Entered: 06/13/2017)
06/14/2017	<u>I</u>	Reset Reply Deadlines pursuant to Local rule 7.3(h) re: <u>33</u> MOTION for Discovery: Replies due by 6/20/2017. (Garland, Leah) (Entered: 06/14/2017)
06/20/2017	<u>46</u>	RESPONSE in Support re <u>33</u> MOTION for Discovery filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Replies due by 7/5/2017 (MITCHELL, MICHAEL) (Entered: 06/20/2017)
06/20/2017	<u>47</u>	DECLARATION of Charles L. McCloud filed by Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A. re <u>46</u> Response in Support of Motion filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. (Attachments: # <u>1</u> Exhibit Exh. A, # <u>2</u> Exhibit Exh. B)(MITCHELL, MICHAEL) (Entered: 06/20/2017)
06/30/2017	<u>48</u>	RESPONSE in Opposition re <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue</i> filed by GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC. filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Replies due by 7/14/2017 (MITCHELL, MICHAEL)

		(Entered: 06/30/2017)
06/30/2017	<u>49</u>	MOTION to Transfer Case by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Response to Motion due by 7/21/2017 (MITCHELL, MICHAEL) (Entered: 06/30/2017)
07/03/2017	<u>50</u>	MOTION for Leave to File a <i>Surreply Brief in Further Opposition to Plaintiffs' Alternative Motion for Jurisdictional Discovery</i> by GRIFOLS S.A.. Response to Motion due by 7/24/2017 (Attachments: # <u>1</u> Exhibit 1 (Proposed Surreply Brief))(MULLINS, ALLISON) (Entered: 07/03/2017)
07/14/2017	<u>51</u>	REPLY, filed by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC., to Response to <u>49</u> MOTION to Transfer Case , <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue and OPPOSITION TO PLAINTIFFS' ALTERNATIVE MOTION TO TRANSFER TO DELAWARE</i> filed by GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 07/14/2017)
07/18/2017	<u>I</u>	Set Reply Deadline re: <u>49</u> MOTION to Transfer Case: Replies due by 7/28/2017. (Garland, Leah) (Entered: 07/18/2017)
07/27/2017	<u>I</u>	Motions Submitted: <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue</i> , <u>49</u> MOTION to Transfer Case , <u>50</u> MOTION for Leave to File a <i>Surreply Brief in Further Opposition to Plaintiffs' Alternative Motion for Jurisdictional Discovery</i> , <u>33</u> MOTION for Discovery to JUDGE N. C. TILLEY, JR. (Winchester, Robin) (Entered: 07/27/2017)
07/28/2017	<u>52</u>	RESPONSE in Support re <u>49</u> MOTION to Transfer Case filed by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Replies due by 8/11/2017 (MITCHELL, MICHAEL) (Entered: 07/28/2017)
09/20/2017	<u>53</u>	Suggestion of Subsequently Decided Authority re <u>44</u> Brief, <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue</i> by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 09/20/2017)
09/21/2017	<u>54</u>	Suggestion of Subsequently Decided Authority re <u>48</u> Response in Opposition to Motion, by Plaintiffs BIOMERIEUX, INC., BIOMERIEUX, S.A.. (MITCHELL, MICHAEL) (Entered: 09/21/2017)
11/17/2017	<u>55</u>	Suggestion of Subsequently Decided Authority re <u>44</u> Brief, <u>43</u> Supplemental MOTION to Dismiss <i>for Improper Venue</i> , <u>51</u> Reply to Response to Motion, by Defendants GRIFOLS DIAGNOSTIC SOLUTIONS INC, GRIFOLS S.A., HOLOGIC, INC.. (MULLINS, ALLISON) (Entered: 11/17/2017)
12/11/2017	<u>56</u>	Consent MOTION to Transfer Case by BIOMERIEUX, INC., BIOMERIEUX, S.A.. Response to Motion due by 1/2/2018 (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(MITCHELL, MICHAEL) (Entered: 12/11/2017)
12/12/2017	<u>I</u>	Motions Submitted: <u>56</u> Consent MOTION to Transfer Case to JUDGE N. C. TILLEY, JR. (Winchester, Robin) (Entered: 12/12/2017)
01/03/2018	<u>57</u>	ORDER signed by JUDGE N. C. TILLEY, JR on 01/03/2018, that Plaintiffs' Alternative Motion to Transfer to Delaware [Doc. # <u>49</u>] is GRANTED and the Clerk of the Court is DIRECTED to TRANSFER this action to the United States District Court for the District of Delaware. All further filings in this matter are to be made in the transferee court, the United States District Court for the District of Delaware. FURTHER ORDERED that, by agreement of the parties, defendant Grifols S.A. ("GSA") has not waived, and has expressly preserved, its defense that the transferee court lacks personal jurisdiction over GSA. GSA may raise the defense with the transferee court pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure. (Garland, Leah) (Entered: 01/03/2018)